

**FILED**

JUL 11 2022

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

CARMELITA REEDER SHINN, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY KM DEPUTY

Damian Galvon Hernandez,

(Enter the full name of the plaintiff.)

**CIV 22 578 J**

v.

Case No. \_\_\_\_\_  
(Court Clerk will insert case number)

- (1) AUSAO,  
(2) Grady Co. Jail,  
(3) FED DEF OF OK WESTERN DISTRICT  
UNITED STATES

(Enter the full name of each defendant. Attach additional sheets as necessary.)

**PRO SE PRISONER CIVIL RIGHTS COMPLAINT**

Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$402 (including a \$350 filing fee and a \$52 administrative fee). The complaint will not be considered filed until the Clerk receives the \$402 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$402 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$52 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, **regardless of how the court decides your case.**

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. *See* 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

### COMPLAINT

#### **I. Jurisdiction is asserted pursuant to:**

\_\_\_ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

☒ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below: APA ("ABA") 8 U.S.C. §§ 1226(a), 1357(a)(2) and 1357(d)  
("APA") 5 U.S.C. §§ 706(2)(A)-(D), and the above ("INA"). Hernandez - now  
moves; pursuant to CPRL Articles 63 and 78 & CPRL § 3001, For a  
order enjoining, restraining, & prohibiting respondents from detaining  
Damian G. Hernandez beyond their judicially authorized release Based on the  
("DHS") Filing & ("ICE") Filing or Forms with held by defendants, GCCJA.

**II. State whether you are a:**

☐ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☐ Pretrial detainee

☒ Immigration detainee

☐ Civilly committed detainee

☒ Other (please explain) Unlawful detainer

**III. Previous Federal Civil Actions or Appeals**

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

NO 1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit: NA

Plaintiff(s): Unapplicable

Defendant(s): Not applicable

b. Court and docket number: NONE

c. Approximate date of filing: NA/UA

d. Issues raised: NONE

e. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): NA

f. Approximate date of disposition: UA

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

#### IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff DAMIAN G. HERNANDEZ  
@ 805 S. East Ave #1, Wynnewood, OK 73098  
Name and any aliases: Damian Gabon-Hernandez  
Address: 215 N. 3rd St., Chickasha, OK 73018  
Inmate No.: 158-028-207
2. Defendant No. 1  
Name and official position: Assistant U.S. Attorney's Office  
to, ("ICE") & Dept. of Homeland Security  
Place of employment and/or residence: U.S. DISTRICT COURT HOUSE  
200 N.W. 4TH STREET, Oklahoma City, OK 73102-3092  
How is this person sued? (☒) official capacity, (☒) individual capacity, (☒) both 7-3-22
3. Defendant No. 2  
Name and official position: Grady Co. attorney for Assistant Federal  
Public Defender Supervisor of - FEDERAL ("DHS") INMATES  
Place of employment and/or residence: SUITE # 109 OLD POST OFFICE  
BUILDING @ 215 DEAN A. MCGEE, OKLAHOMA CITY, OK 73102  
How is this person sued? ( ) official capacity, ( ) individual capacity, (☒) both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

**V. Cause of Action**

Instructions

1. *Provide a short and plain statement of each claim.*
  - Describe the facts that are the basis for your claim.
  - You can generally only sue defendants who were directly involved in harming you. Describe how each defendant violated your rights, giving dates and places.
  - Explain how you were hurt and the extent of your injuries.
2. *You are not required to cite case law.*
  - Describe the constitutional or statutory rights you believe the defendant(s) violated.
  - At this stage in the proceedings, you do not need to cite or discuss any case law.
3. *You are not required to attach exhibits.*
  - If you do attach exhibits, you should refer to the exhibits in the statement of your claim and explain why you included them.
4. *Be aware of the requirement that you exhaust prison grievance procedures before filing your lawsuit.*
  - If the evidence shows that you did not fully comply with an available prison grievance process prior to filing this lawsuit, the court may dismiss the unexhausted claim(s) or grant judgment against you. *See* 42 U.S.C. § 1997e(a).
  - Every claim you raise must be exhausted in the appropriate manner.
5. *Be aware of any statute of limitations.*
  - If you are suing about events that happened in the past, your case may be subject to dismissal under the statute of limitations. For example, for many civil rights claims, an action must be brought within two years from the date when the plaintiff knew or had reason to know of the injury that is the basis for the claim.

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

### Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. Claim 1: "Order to Show Cause, Due Process/Speedy Trial Act(s)".

(1) List the right that you believe was violated: IV AMDT RIGHTS

& (I AMDT First Amend) CPRL Articles 63 & 78; CPRL § 3001

(V AMDT Fifth Amend) CPRL Sec. § 3001

& (VI AMDT Sixth Amend) Conflict of Interests & IAC; XAMDT;

and (VII AMDT Seventh Amend) ("DHS") Forms 1-247 & 1-247D, IAC and Conflict of interest

(VIII AMDT Eighth Amend) ("DHS") Forms 1-205

...detaining me beyond judiciary authorized release on technical rule(s), above"

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Grady Co. Counsel and Attorney, FGD DEF OF UNITED STATES FOR

WESTERN DISTRICT OF OKLAHOMA. (ICE) Form 1-205, In re,

InEffective Assistance of Counsel Paralegal Form 1-200

Conflict of interests (DHS) forms 1-247, 1-247D,



(3) List the supporting facts:

I was not given copys of forms 1-247, 1-247D, 1-205, ("DHS")  
\*1-200 Filings against my personal and private person ("ABA")  
1-247 retainers exceed its authority under APA ("INA"). See  
("INA") Unnecessary Federal entity joined in this case and claims.

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

"For order enjoining, restraining, and pro-  
hibiting respondent from detaining petitioner's (Oamun G. Hernandez)  
the putative class actor, in lawsuit to be joined. Because ("DHS") is  
directed interests of U.S. and its ability to protect its interest; Rules,  
in my case did expose defendants to risks incurring inconsistent obligations."

2. Claim II:

(1) List the right that you believe was violated: <sup>"Tenth Amendment"</sup> ~~X~~ AMDT, contravened  
At fourth amendmt. required judicial warrant(s) to be issued by a  
neutral and detached Magistrate. 4th AMDT. and 5TH AMOT. claims  
1-247 retainers(s) exceed authorities under APA ("INA"). Title 8 -  
8 U.S.C. §§ 122b(a), 1357(a)(2) and 1357(d); 5 U.S.C. §§ 706(2)(A)-(D).

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Grady County attorney administrators  
Unknown Chief Supervisory Control and power of attorney from  
U.S. FED DEF OF OK, Western District: The Chief Federal Defender."  
Mr. Lawhorn's boss; the Grady Co. Jail administrators and health  
nurses, medical Doctors under Fed. contract on color of state employees.

(3) List the supporting facts:

Respondent defendants refused to provide defense counsel representing inmates, including petitioner (Damian G. Hernandez), with copy(s) of forms <sup>("DHS")</sup> eg. 1-247, 1-247D, Immigration detainer, as well as forms 1-205, Warrant of t for arrest of Alien by ("ICE") agents. Respondents opposed the application.. " "Question of laws of Nations-Naturalization!"

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

"The Freedom to contract naturalization under citizenship as employed. Hereby the state of Oklahoma people and thru U.S Governing laws, ("ICE"), U. S. immediate discharge from, contravening unlawful detention & ("DHS") APA release from Grady Co Jail's illegal and inhumane confinement.."

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

## VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Damian Hernandez  
Plaintiff's signature

7-6-22  
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 6 day of July, 20 2022

D-H G  
Plaintiff's signature

7-6-22  
Date